

**This Memorandum of Understanding has been executed by representatives of the MORGAN HILL CITY COUNCIL (City) and representatives of the MORGAN HILL POLICE OFFICERS ASSOCIATION (Association).**

**1.00 ARTICLE I — TERM**

1.01 The term of this agreement shall commence July 1, 2001 and end June 30, 2003.

**2.00 ARTICLE II — REPRESENTATION**

2.01 The Association is a recognized employee organization within the meaning of the City's Employer-Employee Relations Resolution No. 4955.

2.02 The Association represents all employees in the Police Unit. This unit consists of the City classifications of Police Officer, Police Corporal and Police Sergeant.

- A. Police Officer Trainees are not classified employees. They are not covered by this MOU and are not represented by the Police Officer's Association. A Police Officer Trainee is a person being considered for hiring as a Police Officer with the City of Morgan Hill. This person signs a separate contract to attend a POST certified academy. Upon successful completion of the academy they are hired as a Police Officer and begin to receive a regular salary and benefits pursuant to this MOU.

**2.10 MEET & CONFER PROCESS**

2.11 The Association is the only employee organization which is entitled to meet and confer with the City on behalf of represented employees in the Police Unit.

- A. Association Meetings - On-duty members shall be allowed to attend one (1) association meeting per month on-duty for no longer than one and a half hour (1.5), subject to call out. The said meeting must be for the purpose of association business and not social events. All association meetings where on-duty personnel could be affected must be given three (3) days notice to the Police Chief or his designate.
- B. Elected officers and members of the Morgan Hill Police Officers Association (P.O.A.) may be granted limited privileges to utilize City owned equipment within the police facility in return for an annual honorarium of \$150.00 due and payable on January 1 of each year to compensate for City costs to operate and maintain that equipment as follows:
  - 1. Elected officers of the P.O.A. may utilize the Police Department E-Mail system to post official notices to its membership or conduct necessary official business that cannot be conveniently conducted in another fashion. Likewise, members may utilize this system to reply to notices or other necessary business.

2. Elected officers of the P.O.A. shall be allowed the use of the Department fax machine. Use of the machine is limited to routine communication/correspondence. Faxes outside the local area are permitted, however, mass statewide or nationwide faxes are prohibited.
  3. Elected officers of the P.O.A. or their designates may utilize City telephone within the police facility to conduct official P.O.A. business for local calls only. All long distance or message unit calls must be made collect or with the use of a private phone credit card.
  4. Elected officers of the P.O.A. or their designates may utilize City copy machines within the police facility to reproduce notices to its membership, other official correspondence using P.O.A. stationary, and copies of the M.O.U. for distribution to its membership. Reproducing multiple copies of large documents or large quantities (more than 25 copies) of short documents may only be allowed with permission of the Chief of Police.
  5. Official business shall be defined as notifying members of P.O.A. meetings, P.O.A. activities, or other official communications, such as preparing election ballots, correspondence, etc. Not included in official business are items such as actually voting on P.O.A. issues, lobbying or campaigning with respect to P.O.A. issues, expressing personal or political views, making statements which are injurious to individuals or the police organization, or other similar transmissions.
  6. The Chief of Police or his designate shall monitor this privilege during the term of this contract. Should the Chief or his designate detect an abuse of this privilege, he shall notify the Executive Board and allow the Association to be heard. If additional abuses are detected after having placed the Association on notice, the Chief of Police may unconditionally revoke this privilege.
- C. Association Officers (maximum of 4) shall be allowed to utilize a cumulative total of forty (40) hours per year of release time for Association business and attendance of Association related functions including, but not limited to meetings, seminars and schools. Release time shall be granted subject to minimum requirements of the Department and is subject to Department Head and City Manager approval.
- 2.12 Representatives of the City and the Association have met and conferred, pursuant to the provisions of the Meyers-Milius-Brown Act and Resolution No. 4955 for the purpose of reaching agreement concerning all matters within the scope of representation for the City employees in the Police Unit during the term of the Memorandum of Understanding.

2.13 An agreement has been reached.

2.14 This Memorandum of Understanding sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.

A. It is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right to negotiate, and agrees that the other party shall not be required to negotiate, with respect to any matter covered herein during the term of this Memorandum of Understanding. Nothing in this paragraph shall preclude the parties from jointly agreeing to meet and confer on any issue(s) within the scope of representation during the term of this agreement.

B. No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved and implemented by the City and Association.

### **3.00 ARTICLE III — MANAGEMENT RIGHTS**

3.01 The rights of the City as exercised by the City Council and the City Administration include, but are not limited to the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service, determine the procedures and standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means, and personnel by which government operations are to be conducted; determine the content of job classifications; require that employees work overtime; and exercise complete control and discretion over its organization and the technology of performing its work; except that any agreement between the City and Association evidenced by a Memorandum of Understanding pursuant to GC 3500 et.seq. shall take precedence over any of the above enumerated employee and management rights; and that such Memorandum of Understanding will be honored in good faith during the life of this contract; subject to the City's right to determine when an emergency exists and to take all necessary action to carry out its mission in emergencies.

3.02 Nothing in this Article shall be construed to limit, amend, decrease, revoke or otherwise modify the rights vested in the City by any law regulating, authorizing or empowering the City to act or refrain from acting.

**4.00 ARTICLE IV — DEFINITIONS**

4.01 The term Salaries, Wages or Salary and Wages shall mean the gross monthly base pay prior to any deductions.

4.02 The term “Personnel Rules” as used in this Agreement means those regulations titled “City of Morgan Hill Personnel Rules and Regulations” enacted as Resolution No. 1485 and thereafter and hereafter amended.

**4.10 PERSONNEL RULES**

4.11 The City of Morgan Hill Personnel Rules and Regulations will be incorporated by reference as though fully and completely set forth in this Memorandum of Understanding.

4.12 It is understood that during the term of this Memorandum of Understanding the City will be reviewing and updating, where needed, the Personnel Rules and Regulations of the City. The City shall meet and confer with the Association on revisions which are within the scope of representation.

**4.20 INTERPRETATION**

4.21 In the event a conflict in interpretation between these personnel rules as included by reference and similar sections as contained in this MOU, the language in the MOU will be used for interpretation.

**5.00 ARTICLE V — SALARY, WAGES & PAID BENEFITS**

5.01 The SALARIES AND WAGES paid by the City to employees in the Police Unit will be in accordance with the job classifications they hold with pay rates to be amended as follows according to the City’s adopted salary range schedule (See Attached Salary Schedule).

A. The above classification and range for the position of Police Officer includes special assignment work such as School Resource Officer, Investigations, Traffic Safety Officer, Information Systems, Task Force Officers, Specialized Enforcement teams including gang enforcement, etc. Employees who are assigned to these assignments will not be entitled to any type of additional pay for the performance of these assignments.

5.02 Effective June 24, 2001, base salary shall be increased by two and a half (2.5%) percent. Effective January 6, 2002, base salary shall be increased by two and a half (2.5%) percent. Effective June 30, 2002, base salary shall be increased by two and a half (2.5%) percent. Effective December 29, 2002 base salary shall be increased by three (3%) percent.

**5.10 HOLIDAY PAY**

- 5.11 Holiday Pay for those personnel entitled shall be six (6%) of base salary. If the City Council declares an additional holiday for City employees during this agreement, an additional one-half (.5%) percent holiday pay will be granted.

**5.20 OTHER PAY**

**5.21 CALLBACK PAY**

Callback pay is paid at a two (2) hour minimum at the employee's overtime hourly rate. Such pay is recognized as any assignment worked which is not contiguous with a regular shift. When overtime worked is contiguous to a regular shift, either preceding or afterwards, it is recognized as a shift extension, and shall be compensated at the normal overtime rate for completed fifteen (15) minute increments worked.

**5.22 SHIFT SUPERVISOR PAY**

- 5.22 The City shall pay an additional \$1 per hour for Police Officers temporarily assigned to work as Shift Supervisors.

**5.23 FTO PAY**

Individuals in the classification of Police Officer serving as Field Training Officers shall receive additional compensation of One Dollar and Fifty Cents (\$1.50) per hour for time spent training newly hired Police Officers.

**5.24 CANINE PAY**

The Police Officer assigned to the special assignment of Canine Officer shall be paid two (2) extra hours of straight time pay per week in addition to regular duty hours. It is mutually agreed that these two (2) hours are sufficient for animal care. No additional time shall be worked without the express approval of the Department.

**5.25 BILINGUAL PAY**

Unit employees certified by the Chief of Police to: (1) have an effective working command of the Spanish language; and (2) to use Spanish in their work, shall receive, effective the first payroll period following ratification of this agreement, five (5%) percent of base salary as bilingual pay.

- A. The City may, at its sole discretion, identify other languages which are helpful to the operation of the Police Department. Unit employees certified by the Chief of Police to: (1) have an effective working command of those language(s); and (2) to use the language in their work, shall receive an additional three (3%) percent of base salary as bilingual pay.
- B. All employees receiving bilingual pay shall be subject to recertification every two years unless the certification is waived by the City. Any

employees wishing to receive bilingual pay must be certified prior to pay implementation. The certification process will be completed by a trained professional; and will consist of both verbal and written tests designed to establish a conversational level of competence.

## **5.26 COURT PAY**

Court pay is paid at a four (4) hour minimum at the employee's overtime hourly rate. Such pay is recognized as any court assignment worked which is not contiguous with a regular shift.

- A. The minimum an employee can receive for a court appearance cannot cause the employee to receive a rate of pay which overlaps into their regular shift. The time between the start of the court and the start of the scheduled shift shall be paid as governed under the City's overtime policy and the employee will be required to report to work. The same "overlap" rule applies for a court appearance which begins within thirty (30) minutes time of the end of a regular shift.
- B. Employees shall be compensated for travel time. Travel time is any time in excess of the time the employee spends going to and from a court appearance. If the sum of the travel time and the court appearance does not exceed the four (4) hour minimum paid for court appearances, or if the time overlaps into the employee's regular shift, no additional overtime compensation will be paid. Normal commute is defined as the time necessary for an employee to travel from their residence to the Morgan Hill Police Department based on the distance and prevailing commuter speeds and congestion.

Employees are not required to drive a City vehicle to court, but may be provided a City vehicle for out of County travel, if available. Employees will be reimbursed at the current IRS rate for use of their personal vehicle when making in-County or out-of-County court appearances.

- C. Except as provided herein, employees receiving overtime court pay shall not receive reimbursement for meals nor will they receive overtime pay for court meal recesses. Employees held over through a court lunch recess, but then released from court immediately following the recess, shall receive overtime pay for the lunch recess, not to exceed one hour.
- D. Only one four (4) hour minimum compensation for an off duty court appearance will be paid per day. If additional off duty court appearances are required beyond the time covered by the four hour minimum, the officer shall be paid at the overtime rate for actual hours worked as governed by the City's overtime policy.

## **5.27 COURT STAND-BY PAY**

In the event that employees in the Police Unit are assigned by the Police Chief or designate to remain on call for the purposes of court standby, the said employees shall receive one quarter straight time pay for every hour on standby, with a two hour minimum and a eight hour maximum per court day.

- A. As referred to in this agreement, court standby is defined as time in which the off duty activity of an employee covered by this MOU is restricted due to the inevitability of said employee having to respond to court within the succeeding twenty-four (24) hours.
- B. The Police Chief or his/her designate shall be responsible for informing appropriate court officials of the above stated court standby procedure and any conflicts resulting from the procedure.

## **5.28 REST PERIOD BETWEEN SHIFTS**

Sergeants/Corporals/Officers who are assigned to and actually work more than four hours between two regularly scheduled 12 hour patrol shifts, shall be entitled to an eight hour rest period between shifts. The eight hour rest period may not necessarily consist of eight consecutive hours, depending upon the circumstances. If any portion of the eight hour rest period occurs during the employee's regularly scheduled 12 hour shift, the employee shall receive normal compensation for that time.

For example, an Officer goes off duty at 7 a.m., and is subpoenaed to court at 8 a.m. The officer remains in court until 3 p.m. and is scheduled to return to work at 7:00 p.m. In this case, the Officer could return to work at 10:00 p.m. without loss of hours or need to use accrued time off for the three hour period of the regular work shift.

- A. In order for this provision to take effect, the Sergeant/Corporal/Officer is responsible to contact the Watch Commander to request this rest period as soon as he or she is aware that it will be required so that ample time is available to arrange for replacement officers if necessary.
- B. The Watch Commander may exercise discretion as to the exact time the Sergeant/Corporal/Officer must report back to work, based on individual circumstances and operational needs, so long as it complies with the intent of this section.
- C. This section shall not apply to voluntary overtime work assignments between shifts which are worked at the option of the individual employee.
- D. This section shall not apply in emergencies such as mutual aid mobilizations or natural disasters.

### **5.30 OVERTIME/COMPENSATORY TIME**

- 5.31 Overtime/comp time is defined as one-and-a-half times an employee's base hourly salary. Overtime/comp time shall be calculated on a minimum of fifteen (15) minute increments actually worked beyond the employee's normal work shift. For clarification this means; 15-29 minutes = 15 minutes of overtime pay, 30-44 minutes = 30 minutes of overtime pay and so on. All such time must be approved in advance with the employees supervisor or Department Head.
- 5.32 Employees who have accrued vacation and/or compensatory time off at least equal to eighty (80) hours shall have the option of receiving pay in lieu of time off for forty (40) hours of the accrued time, provided that they are taking forty (40) consecutive hours of vacation and/or compensatory time off. Payment shall be made at the straight time rate. Employees may elect this option only one time per fiscal year.
- 5.33 Unit personnel will have the option of receiving either paid overtime or compensatory time off. The compensatory time accrual limit for the term of this agreement is 160 hours.
- 5.34 Unit personnel may elect to make contributions to one of the City's deferred compensation plans in a given pay period in lieu of receiving paid overtime. These contributions can be one time, lump sum contributions or unit personnel can temporarily increase the amount of their established deferral five times in a given fiscal year. For example, if an officer works overtime in a given pay period, he/she may temporarily increase the amount of their deferred compensation contribution for that pay period. Unit personnel must submit a completed deferred compensation enrollment/change form to the Human Resources Office prior to the end of the pay period for which they wish to have the change be effective.

### **5.40 BASE WORK SCHEDULES**

- 5.41 Sworn Police personnel will work schedules based upon assignment as follows:
- A. For purposes of calculating overtime, comp time and defining payroll periods, the established work period is a fourteen (14) day period, recurring every fourteen (14) days, beginning at 12:01 a.m. every other Sunday and ending every other Saturday, 14 days later, at 12:00 midnight. For purposes of establishing a control point, the first work period cycle for this contract period begins on Sunday, September 12, 1993 at 12:01 a.m. and ends on Saturday, September 25, 1993 at 12:00 midnight.
  - B. The work day, for pay purposes, shall be a twenty-four (24) hour period within which the employees' regularly scheduled shift begins.
  - C. Sworn personnel assigned to Patrol will work an approved flexible schedule of five 12 hour work days and two 10 hour work days totaling no more than eighty (80) hours per pay period.



- D. Sworn personnel assigned to Special Operations Division will work an approved flexible schedule days totaling no more than 80 hours in each pay period. However, officers assigned to work in conjunction with other government agencies shall work schedules which are compatible with the joint needs of the Department and the other agency, not to exceed 80 hours in each pay period.
- E. Sworn personnel assigned to any other special assignments that do not fall into any of the assignments listed in 5.41 C through 5.41 D will work an approved flexible schedule totaling no more than 80 hours per pay period. Sworn personnel on extended leave (excluding vacation and compensatory time off) of two weeks or more will be assigned a base 40 hour per week, Monday through Friday, 8 to 5 work schedule. For such individuals who are on 4850 time, the schedule reassignment will not affect compensation.
- F. The Police Chief retains the right to make any special exceptions to the above schedules:
  - 1. If at any time it becomes evident to the Police Chief that the most efficient use of staffing to meet the workload demands of the community is not being met the Police Chief reserves the right to modify work schedules on a temporary or permanent basis. The City will attempt to give the effected employee as much notice as possible, but at least three (3) full working days notice prior to the effective date of any schedule change.

## **5.50 HEALTH BENEFITS**

- 5.51 Effective June 24, 2001 the City will contribute a maximum of Five Hundred Sixty Dollars (\$560) per employee per month for employee medical and dental premiums. Employees not using all of the benefit amount shall be entitled to use 50% of the surplus amount for optional benefits such as cancer or heart/stroke insurance premiums, or for participating in medical reimbursement or dependent care expense accounts. If employees do not use their 50% surplus for optional benefits, it will be added to their salary as taxable cash. Effective June 30, 2002 the City will contribute a maximum of Six Hundred Ten Dollars (\$610) per employee per month for employee medical and dental premiums.
- 5.52 In the event that an employee does not cover dependents, the City shall pay to those employees employed prior to July 1, 1979, a maximum dollar amount of Thirty-five (\$35.00) Dollars per month. Employees hired after July 1, 1979 shall not be entitled to the cash payment for unused medical benefits.
- 5.53 The City agrees to provide, at City expense up to 100 percent of the premium costs per employee, the Psychological Health Program as presently constituted.
- 5.54 All members shall have the option of continuing their current medical insurance at the employees own cost after retirement. This option can continue as long as there is no lapse

in coverage and the employee pays the monthly premium to PERS or to the Finance Department as per their billing requirements.

- 5.55 Between July 1, 2001 and June 30, 2003, the City's Benefits Committee will consider programs to enhance employee retirement planning. The POA shall designate a member to serve on the Benefits Committee. Proposals to be considered by the Committee will include methods to finance retiree medical premiums.

## **5.60 UNIFORMS**

- 5.61 Effective June 24, 2001 the City shall provide a single once a year \$800 payment of uniform allowance to Association members. The payment shall be made on or about July 1st of each year and will be considered to be payment for the preceding year. Upon an employee's separation, the employee will receive a prorated uniform allowance payment for the period worked up to the date of separation. The uniform allowance is for uniform cleaning and replacement of worn uniforms. Individuals in the specialty assignments of Canine, Bike Patrol, and SWAT shall receive an additional \$50.00 uniform allowance per year.

- 5.62 Newly hired uniformed officers at time of hire will be provided an initial uniform as follows:

- 2 s/s shirts
- 2 l/s shirts
- 3 pants (wool)
- Belt
- Hat
- Baseball Cap
- Ultra Duty Jacket
- One pair shoes

Thereafter, they shall be paid the annual uniform maintenance and replacement allowance as set forth in 5.61 above.

- 5.63 The City shall pay for the replacement of uniforms/clothing damaged due to the performance of job duties on a prorated basis, based on the age of the uniform and upon the recommendation of the Police Chief or his designate. The useful life of uniform items for the purpose of this section shall be assumed as follows:

- Uniform shirts/pants 2 years
- Uniform jackets 5 years
- Uniform hats 5 years

If available, employees shall provide receipts establishing date of purchase.

Authorized personal property such as watches, glasses, etc., damaged due to the performance of job duties shall be replaced up to a \$75.00 (\$125.00 for prescription

glasses) limit upon the recommendation of the Police Chief or his designate. No reimbursement, however, shall be made for personal property which the employee is using on a voluntary basis in lieu of an item which has been provided by the City.

- 5.64 Newly hired uniformed officers, at time of hire, will have their safety equipment including gun, baton, handcuffs, flashlight, rain gear, leather and related equipment furnished by the City as per Department specifications. The City will repair or replace existing safety equipment owned by officers hired before July 1, 1997 as they are damaged, worn out or as Department specifications change, not to exceed the cost of City provided safety equipment.
- 5.65 Officers/Corporals/Sergeants who were hired before February 4, 1990, may request, or may be issued mandatory safety equipment to include: gun, baton, handcuffs, flashlight, rain gear, leather and related equipment. If any of these items are personally owned when they become worn out or damaged, they shall be replaced with City issued equipment in lieu of repair, except that the City may choose to repair, rather than replace, a personally owned firearm or holster. In no event shall the City expense for repairing or replacing personally owned firearms or holsters exceed the cost of City provided equipment.
- 5.66 The City shall provide a Threat Level III protective vest, including shock plate, to all sworn police officers. The City shall replace a vest after it has been in service for five years, has been compromised, or is otherwise unserviceable per industry standards. Police personnel in an assignment that requires them to wear a uniform must wear the City issued protective vest at all times. Police personnel in a non-uniform assignment are not required to wear a vest at all times while on duty, but shall maintain the vest in an accessible location and should wear the vest when engaged in planned, high risk events. This provision applies only to vests purchased by the City after 2-4-90.

## **5.70 PAID SERVICE CONTRACTS**

- 5.71 A paid service contract is when the an organization or person contracts with the City for sworn police officers to provide security at a public (non City sponsored) or private function. Paid service contracts exclude any regular or extended shift, shift replacement, special assignments, training, special event, or other assignment for which the employee is compensated at the overtime rate. The following conditions apply to the terms and selection of off-duty personnel to provide service under a paid service contract:
- A. A flat rate salary for full-time sworn officers for all such services will be \$30.00 per hour. Sworn Police personnel shall be paid a two hour minimum when filling a Paid Service Contract. Twenty percent (20%) or \$6.00 per hour overhead will be charged to the party requesting the Paid Service Contract which will cover the administrative charges incurred to process the Paid Service Contract and necessary insurance expenses which are incurred by the City. The hourly rate charged to the private party for contracted police services, therefore, will be \$36.00 per hour with a minimum charge of \$72.00.

- B. Full-time, sworn personnel will be given the first opportunity to sign up for a paid service detail.
  - 1. A sign up sheet for all paid service contracts shall be posted in a designated location that is accessible to all personnel upon receipt of a signed agreement from the contracting party, and request for service on a specific date and time.
  - 2. If the request is received more than 10 days prior to the event, the sign up will be restricted to full-time sworn personnel. On the ninth day prior to the event, any available slots may be filled by qualified non-sworn personnel and/or reserve officers.
  - 3. A department supervisor or other assigned person may contact off duty personnel in an effort to fill requests for paid service contract however police personnel will not be compelled to work a paid service contract.
- C. The Chief of Police may modify these procedures to facilitate timely assignments so long as the rotational intent of this section is maintained.
- D. Personnel assigned to paid service contracts are covered by the City's worker's compensation program.
- E. The Police Captain and the POA will work jointly with Morgan Hill Unified School District officials to resolve payment concerns.

## **6.00 ARTICLE VI — EDUCATIONAL INCENTIVE PROGRAMS**

### **6.10 EDUCATIONAL INCENTIVE PAY PROGRAM**

- A. All employees shall have the option of participating in an Educational Incentive Program.
- B. Educational incentive pay shall be paid in addition to regular pay when education is in addition to the regular requirements of the job as stated in the City's adopted job descriptions and said education is job-related, as determined by the Police Chief. An employee may not receive more than a total of seven-and-one-half (7.5%) percent increase above his/her base monthly salary.

### **6.11 PROGRAM GOALS**

- A. The goals of this program are:
  - 1. To encourage employees to pursue education, health maintenance, and programs which would enhance their job performance and effectiveness.
  - 2. To prepare employees for possible promotions to other positions or future openings with the City.

3. To reward employees for their own initiative, demonstrated through their educational accomplishments and/or participation in the incentive program.
- B. Any evaluation or decision regarding this program or an employee's participation in the program will be made based on the intent of the above stated goals.

#### **6.12 RATES OF PAY FOR EDUCATION ABOVE STATED JOB REQUIREMENTS**

- A. 2.5% = Intermediate POST Certificate.
- B. 2.5% = Advanced POST Certificate.
- C. 2.5% = B.A./B.S. Degree.
- D. 2.5% = Annual Requalification.
- E. The maximum education incentive percentage that may be received without annual requalification is 5% unless a Bachelors's degree has been earned, in which case the maximum 7.5% may be received without annual requalification. A 10% maximum can be earned by those employees on the "special" EIP program (previously called longevity).
- F. For those employees on the regular EIP program, not the "special" EIP program, the cumulative percentage pay increments, in any combination, will not exceed 7.5%.
- G. No employee may receive EIP pay above the Bachelor's degree level regardless of the education level or experience obtained.
- H. Certificates and courses will qualify towards the annual requalification percentage (2.5%) based on job relatedness, hours required for completion and the prior approval of the Police Chief.

#### **6.13 REVIEW PROCESS FOR CERTIFICATIONS**

- A. The following review process will be used for assessing how a certification, other than a college course, will count towards educational incentive pay:
  1. Where possible, the formula found in the "Equivalents other than college units" section of this article will be used to evaluate the degree to which the certificate counts towards educational incentive pay.
  2. If it is possible to obtain, the Police Chief or designee will contact the agency awarding the certificate and request a statement describing the

number of course hours needed to obtain the certificate. This statement will then be converted to formula hours.

3. In the event a determination cannot be made using paragraphs (a) and (b) listed above, the employee will make a recommendation to the Police Chief. This recommendation by the employee shall be in writing and shall include the degree to which the employee believes the certificate should count towards educational incentive pay and the specific justification for such.
4. The decision of the Police Chief shall be final.

#### **6.14 PROGRAM QUALIFICATIONS AND GUIDELINES**

- A. The following guidelines shall apply:
  1. An employee must have completed his/her probationary period before being eligible for this program. Employees on probationary status as a result of promotions shall be deemed eligible under this plan. Employees hired as laterals shall be deemed eligible to participate in the program during their probationary period.
  2. The employee must demonstrate that the course or degree sought and being considered for EIP pay will be directly related towards enhancing the employee's present job skills or future promotional opportunities within the City. The Police Chief will make this determination after discussions with the employee. The burden of proof as to job relatedness of specific educational levels shall be upon employee.
  3. Employees shall contact the Police Chief, in writing, prior to enrollment in a course or class to receive confirmation that such a class would qualify for this program.
  4. Attendance and participation in this program will be on the employee's own time and at their own expense, unless a specific exception is granted, in writing, by the Police Chief.
  5. The tuition reimbursement program is a separate benefit contained in the MOU and employees may have the option of using the tuition reimbursement program towards the attainment of their education or professional development goals. Use of the tuition reimbursement program by the employee will not invalidate any provisions of this article.
  6. The educational level attained under this program must be completed with a passing of "C" grade or better or "passing" if a "pass/fail" system.

7. Payment of educational incentive pay will be effective on the first day of the payroll period following the date of the college degree or course certification, provided the employee has made a timely request to the Police Chief for such pay. In no circumstances will payroll periods be split to match the exact date appearing on the degree or certificate.
8. Educational incentive pay is based upon education which is in addition to the regular requirements of the job as stated on the City's adopted job description. Attached are the "Minimum Educational Job Specifications required for Police Officers Association positions. These educational requirements are used as the starting point for EIP calculations.

#### **6.15 DOCUMENTATION OF EDUCATIONAL ACHIEVEMENT**

- A. The Human Resources Office will provide an educational incentive pay program form to be kept in the employee's personnel file to track the employee's participation in this program.
- B. Evidence of successful completion of a degree, course or certificate shall consist of a diploma or certificate indicating the major field of study along with a copy of college transcripts.
- C. The employee shall be responsible for furnishing, in a timely fashion, all necessary documentation to the Police Chief, so that the Police Chief can make the appropriate determination under this program.
- D. The Police Chief or designee will forward appropriate paperwork to the Human Resources Office so as to coordinate the processing of necessary Personnel Action Forms with the Payroll Department. Once processed, documentation will remain in the employee's personnel file.

#### **6.16 TERMINATION OF EDUCATIONAL INCENTIVE PAY**

- A. The 2.5% annual requalification portion of the educational incentive pay will be terminated when an employee fails to requalify as per the guidelines outlined in this policy.
- B. Once an employee fails to requalify, he/she will lose his/her 2.5% annual requalification portion of the educational incentive pay effective the start of the first payroll period in the new fiscal year. If an employee fails to requalify, he/she will not be able to earn the 2.5% annual requalification pay until such time as he/she has completed the outlined requalification requirements. At such time, the employee will then be able to return to the educational incentive pay level he/she enjoyed before failing to requalify. The 2.5% annual requalification percentage

will go back into effect on the start of the first payroll period following completion of the outlined requirements for requalification.

## **6.17 REQUALIFICATION PROCESS**

- A. Requalification for continued receipt of educational incentive pay shall be required as follows:
1. All elements of the employee's proposed requalification program must be approved in advance by the Police Chief.
  2. To requalify, an employee must earn at least three (3) EIP points per fiscal year by means of college units or equivalents.
  3. College Units. It is the responsibility of the employee to provide written verification (ie. transcript, grade report or certificate of completion) to the Police Chief which documents that he/she has successfully completed the course.
    - a. Semester System — One unit equals one EIP point.
    - b. Quarter System — One unit equals two-thirds EIP point.
  4. Equivalents other than college units. Forty-eight (48) hours of attendance equals 3 EIP points. This equation is derived as follows: One hour of classroom lecture, shop, hands-on, project, group discussion or similar activity will be deemed equivalent to one sixteenth (1/16) of one semester unit. The employee shall provide written verification number of hours involved in such educational activities.
  5. Twenty (20) hours of community service or physical fitness training done off duty shall equal one EIP point. No more than one point per year shall be granted for community service work or physical fitness training. Employees may participate in the POST In-Service Physical Fitness Program. to earn EIP credit for physical fitness training. Participation in this program is defined as follows:
    - a. During the first year of implementation:
      - (1) Employees wishing to participate in the program must complete the program's "pre-screening", "fitness assessment procedure", including the physical fitness test battery, physical fitness written exam, and the preparation of a personal fitness plan.
      - (2) Between 180 and 225 days after entering the program, the employee must undergo a second fitness assessment. Completion of this second assessment will earn participating employees one (1) EIP point. Failure to



complete the second assessment within the prescribed time period will disqualify the employee from using this program for EIP points for that year. Verification of the employee's participation in the fitness testing and assessment process will be provided to the Police Chief for the sole purpose of evaluating the employee's EIP status.

- b. Second year of program implementation and beyond:
  - (1) Employees participating in the program must undergo at least one fitness assessment during each year. Employees will earn one (1) EIP point if they undergo one fitness assessment and participate in the recommended fitness program referenced in section 6.17 5 a. Verification of the employee's participation in the fitness testing and assessment process will be provided to the Police Chief for the sole purpose of evaluating the employee's EIP status.
  - (2) The City will evaluate the impact of the POST In Service Physical Fitness Program at the end of this contract.
  - (3) The levels of fitness are defined in the POST In Service Physical Fitness Program manual. The three levels are:
    - Bronze
    - Silver
    - Gold
- c. Employees, based on the results of the "pre-screening" process as described above, may be required to obtain a medical clearance before participating in the In Service Physical Fitness Program . The employer agrees to bear reasonable costs for the employee to obtain a clearance. The employer's obligation to bear such costs shall exist only to the extent that such costs are not covered in whole or part by the medical insurance provided for elsewhere in this agreement. If the employee's insurance will not cover the costs of obtaining a clearance, the City may require that the medical clearance be obtained.
- d. Physical Limitations
  - (1) The parties agree that members with temporary physical limitations which prevent or substantially hinder compliance with any or all of the standards of the plan should be granted an exemption from compliance with those standards. To be eligible for such an exemption, a member must submit to the City a written statement from the member's physician establishing the condition or

disability which prevents the member from meeting any or all of the standards of the plan. If the City disagrees with the judgment of the member's physician, then the City shall have the right to have the member examined by a physician of its choice and at its expense. If the physician utilized by the City disagrees with the member's physician, then the two physicians shall select a third physician, who shall examine the employee at the City's expense. The judgment of the third physician as to the member's physical condition shall be binding, unless mutually agreed to the contrary by the parties. If a member granted such a temporary exemption meets the standards for which the member was not granted an exemption, then the member shall be deemed to be in compliance with the plan.

- (2) In the event a member is unable to meet any of the standards of the plan due to a disability as defined in the Americans with Disabilities Act ("ADA"), or claims that a standard is contrary to any laws or regulations, then the City and Association agree to meet and discuss such situations on a case-by-case basis to jointly determine, in consultation with the individual employee, whether an individual alternative fitness standard can be established for the employee which complies with such legal requirements. This review and consultation shall be limited to the specific standards which the employee is unable to meet due to such disability, or the standard which otherwise fails to meet established legal requirements. Upon request by the City, the employee shall (a) provide information regarding any claimed disability, including a statement by his/her treating physician, and (b) submit to an examination by a physician selected by the City, at the City's expense. If it is determined that a meaningful alternative standard cannot be established for the employee or that a test poses an increased risk to the employee, the standard shall be waived and the individual shall be deemed to have met the standard in question and not be subject to disciplinary action. If the employee and City are unable to reach agreement relating to adjustment or waiver of standards due to disability or otherwise as provided herein, the issue may be submitted by either party to the grievance procedure. The parties acknowledge that the intent of this Subsection is to provide a procedure by which the physical fitness standards can be customized on an individual basis as required to accommodate protected disabilities, or other legal

requirements, and the parties agree to cooperate to accomplish this goal.

- a. For community service work, employee must submit a letter from the community group/organization which states the nature of the community service that was completed, the dates of service and the total number of hours that were served. This letter must be signed by a representative of the community group/organization.
6. Requalifying will take place in July of each year when the Police Chief will require each employee receiving educational incentive pay to submit for the Police Chief's approval documentation of the college units, classes and training the employee has done during the previous year to requalify, based on the program approved by the Police Chief in advance. The employee will also submit to the Police Chief for approval an outline of the college units, classes and training he/she plans to take during the following year to requalify.
7. The employee must show at least a grade of "C" when grades are given, or "passing" if a "pass/fail" system, in order to continue to receive educational incentive pay.
8. Employees receiving education incentive pay will be given an annual requalification form no later than June 1 of each year. It is the employee's responsibility to complete the form and submit it to the Police Chief before July 1 of each year for consideration of approval.

#### **6.18 EMPLOYEES PREVIOUSLY ON LONGEVITY**

- A. An employee previously on the longevity pay program may convert to this EIP program at any time they choose. This is a one-way conversion. Once an employee elects the regular EIP Program, he/she may not return to the "Special EIP Program" (previously called the Longevity Program).
- B. Employees covered under the previous longevity program may advance on their anniversary date to the various pay levels of five (5%) percent after ten years service, seven-and-one-half (7.5%) percent after fifteen years of service, and ten (10%) percent after twenty years of service. Advancement is based upon the assumption that these employees will continue to requalify annually as had been previously done.
- C. Once an employee fails to requalify, he/she will lose his/her educational incentive pay until such time as they have completed the outlined requalification requirements. At such time, the employee will then be able to return to the educational incentive pay level he/she enjoyed before failing to requalify.

## **6.20 TUITION REIMBURSEMENT**

6.21 Tuition reimbursement will work on the following basis:

- A. The Police Chief must approve all classes in advance.
- B. Reimbursement will be given upon successful completion of the class. See Article 6 of this MOU for use in conjunction with the EIP Program.
- C. The City will not reimburse for personal transportation, lodging, or meal costs.
- D. Employees may receive a total of up to \$1000 annually in tuition reimbursement according to the following schedule:
  - 1. Up to \$350 may be used for work-related courses or training subject to the approval of the Police Chief.
  - 2. Employees may use an additional \$300, or a total of \$650 annually, for courses taken at a junior college or toward a Associate of Arts or Science degree.
  - 3. Employees may use an additional \$650, or a total of \$1000 annually, for courses taken at a four-year college or university which will result in a Bachelor's or Masters degree.
- E. For classes or training which has been scheduled in advance and approved by the Police Chief as listed above, the City will reimburse the employee for any out of pocket expenses they may have incurred if the employee is required to miss their class to cover another shift. The employee must notify the Police Chief at the time they are being reassigned of any potential schedule conflicts. Failure to do so results in no reimbursement.

## **6.30 TRAINING SCHOOL**

6.31 The City shall compensate employees for all related travel expenditures up to POST reimbursement amounts to an assigned POST Training Class. The City reserves the right to adjust work schedules to facilitate training schedules.

## **7.00 ARTICLE VII — TYPES OF LEAVE/LEAVE PROCEDURES**

### **7.10 SICK LEAVE ACCRUAL**

7.11 Sick leave credit shall be accumulated on the basis of eight hours per month. The employee's accumulated sick leave is unlimited.

7.12 The City will pay twenty-five (25%) percent of unused annual sick leave at the end of each calendar year. This payment will be based on semi-annual calculations, made on June 1, and December 1, of each year. The balance of sick leave will be added to the employee's accumulated sick leave.

7.13 The City has amended it's PERS contract to provide for Section 20965 , credit for unused sick leave. One Hundred percent (100%) of the employee's unused sick leave will be converted to into service time and added to the employee's retirement eligibility upon retirement.

7.14 Employees in this Unit are entitled to twelve (12) hours of paid time off per fiscal year to be used as personal leave time. The use of this leave must be approved in advance by the Police Chief or his/her designee and shall be deducted from the employee's current year sick leave accrual.

**7.20 VACATION ACCRUAL**

7.21 VACATION ACCRUAL shall be as follows:

- A. Eighty (80) hours vacation per year from the date of hire through the fifth (5th) year of employment.
- B. One hundred and twenty (120) hours vacation after the fifth (5th) year of service through the tenth (10th) year of service.
- C. One hundred and sixty (160) hours vacation after the tenth (10th) year of service.
- D. Maximum accumulation of vacation shall not be more than 1.5 years annual accrual. Employees may "float" over this maximum accrual during the fiscal year, but will lose any accumulated vacation over 1.5 years annual accrual on June 30 of each fiscal year.
- E. If a vacation is canceled, due to 7.23 below, employees will not lose any accrued vacation time. However, unit employees will be required to reschedule the vacation time off in a reasonable period of time following Section 7.22 and 7.24 below.

7.22 Sergeants/Corporals/Officers may request vacations of one week (34 consecutive hours or more) in one of the following ways:

- A. Preferred vacations sign-up procedure beginning with Section 9.60 of this MOU.
- B. Other vacations may be requested at any time during the year on a first come, first serve basis. Approval of other vacations is subject to adequate staffing due to the scheduling of preferred vacations, training assignments, or other leaves which may take precedence.

7.23 Approved vacation and/or CTO time will not be canceled unless there is an unforeseen and/or urgent staffing need.

7.24 If an employee signs up for enough preferred vacation to bring them below the vacation accrual limit by June 30 and the City cancels the employees' preferred vacation and the

employee is unable to reschedule in the current fiscal year and this causes them to be above the limit on June 30, the City will cash out vacation time to bring them in compliance with the limit OR at the employee's option, the vacation will be rescheduled within sixty (60) days subject to departmental approval and vacation sign up rules.

### **7.30 EXTENDED LEAVE POLICY**

7.31 In the event an employee is absent from work for illness or injury, unless notified otherwise, the time off will be coded and deducted from (1) accumulated sick leave, (2) accumulated Comp Time, and (3) accumulated vacation time in that order. If a determination is subsequently made by the City that the injury was job related all sick leave, comp time and vacation time used to cover the leave will be credited back to the employee in an amount up to the worker's compensation determination. Employees with non-sufficient time off credited to them will be coded on payroll as absent without pay.

7.32 The City and Association acknowledge that the City has the authority, in its discretion, to place officers on paid administrative leave in appropriate circumstances. Examples would include investigations, waiting periods for disciplinary hearings of use of weapons, etc.

### **7.40 BEREAVEMENT LEAVE**

7.41 Full-time employees shall, on an annual basis, be allowed time off in the event of a death in the immediate family, as that term is defined in Rule 6.18 of the Personnel Rules and Regulations. Up to three (3) days of such leave shall be allowed where the death and service are within the State of California, and up to five (5) days where the death or service is outside the State. Usage of this leave shall not be charged against the employee's sick leave or vacation.

### **7.50 FAMILY ILLNESS AND MEDICAL APPOINTMENT**

7.51 Full-time employees may utilize accrued sick leave due to an illness or injury of a member of the immediate household. Accrued sick leave may also be used for medical and dental appointments of the employee where it is unfeasible to schedule them on the employee's own time. All appointments can only be taken with prior approval of the Watch Commander except emergency appointments in which case the Watch Commander must be notified.

7.52 As provided in Rule 18.03 of the Personnel Rules and Regulations, the department head may require physicians certificates attesting to the nature of the illness, injury or treatment.

### **7.60 MATERNITY LEAVE**

7.61 A pregnant employee holding a permanent position in the Classified Service shall be entitled to a leave of absence without pay for up to one hundred and twenty (120) days.

This leave shall commence upon certification from the employee's attending physician that she is no longer capable of performing the regular duties of her position. Upon expiration of the approved leave, the employee shall be reinstated to her former position or to a comparable one if the former position is abolished during the period of leave and the employee would otherwise not have been laid off. Prior to the employee being reinstated, the department head may require a statement from the attending physician that the employee is physically capable of resuming the regular duties of her position.

- 7.62 Where it is the opinion of the department head that the employee should be placed on leave sooner than prescribed by her physician due to her inability to perform the regular duties of her position or for the protection of the employee's personal health and safety, the department head shall direct the employee to be examined by a second physician. The cost of this examination shall be paid by the City and shall not be ordered without prior approval of the appointing authority.
- 7.63 An employee may, based upon medical factors, request that her leave be extended beyond one hundred and twenty (120) days and shall submit a supporting statement from her attending physician. The department head, with the prior approval of the appointing authority may extend the leave for up to one hundred and twenty (120) days.

#### **8.00 ARTICLE VIII — MISCELLANEOUS BENEFITS**

- 8.01 The City shall continue to provide the PERS Local Safety Retirement Plan (2% at 50) for Unit members through June 30, 2002. Effective July 1, 2002 the City will amend its contract with PERS to provide for the PERS Local Safety Retirement Plan (3% at 50) for Unit members. The City will pay the employer contribution for the retirement plan. The employee will pay the employee contribution for the retirement plan. The retirement plan shall also include the credit for unused sick leave (Section 20965), the 1959 Survivor's Benefit level four (Section 21382.5), PERS Military Service Credit Option (Section 21024), and the single highest year compensation (Section 20042) options.
- 8.02 Long Term Disability Insurance shall be paid by Unit members through payroll deduction.
- 8.03 The City will provide reimbursement for traveling, lodging, and meal expenditures incurred by employees traveling on City business in accordance with existing Policies and Procedures. Overtime will be paid for travel time, other than court time, if it is beyond the established work week.
- 8.04 Members may be entitled to 3 15-minute breaks and 1 45-minute break during each 12 hour shift. Members working less than a 12 hour shift shall be entitled to 2-15 minute breaks and 1-30 minute break during the shift. Members may request to take the 15 minute breaks in conjunction with the 45 minute break, workload permitting, at the discretion of the Watch Commander.

8.05 Employees are responsible for the employees 9% PERS contribution deferred from federal and state income taxes pursuant to IRS 414(h)(2).

**8.10 GYM EQUIPMENT**

8.11 The City agrees to maintain the existing gym equipment for the term of this agreement.

8.12 The City will provide \$5,000 for new gym equipment effective July 1, 2001. Recommendations for equipment to be purchased shall be made by a department committee established by the Police Chief.

**8.20 HEPATITIS B VACCINATIONS**

8.21 The City agrees to provide Hepatitis-B shots for association members.

- A. If the employee selects a medical plan which provides this benefit then employees in these classifications must get the shots through their medical plan.
- B. If not covered by their group medical plan, employees wishing to receive the Hepatitis-B shots must submit a written request to the Human Resources Office. The Human Resources Office will contact the medical office currently being used for City medical examinations to set up the first appointment.
- C. Charges for Hepatitis-B shots for these employees pursuant to 8.05B above will be paid by the City.

**9.00 ARTICLE IX — MISC POLICIES AND PROCEDURES**

9.01 The parties to the Memorandum of Understanding recognize and acknowledge that the services performed by the City employees covered by this Agreement are essential to the public health, safety and general welfare of the residents of the City of Morgan Hill.

**9.10 WATCH SWAPS**

9.11 A Watch Swap is a voluntary agreement between two sworn department members of similar rank to trade a specific and equal number of work shifts. When one officer agrees to work for another, the second officer must reciprocate by working an equal amount of time for the first officer. When a trade is agreed upon and reciprocated, both involved officers will have accounted for 2080 base work hours per year.

9.12 Sworn department members may negotiate Watch Swaps among their peers provided that:

- A. The involved officers complete the Watch Swap Request at the bottom of the overtime form at least one working day prior to the swap.
- B. The Watch Commander for the affected shift approves the request.



- C. The trade is among members of a similar rank (Ofc.& Ofc., Ofc. & Cpl., Sgt. & Sgt., Sgt. & Cpl.).
  - D. The regularly scheduled officer shall code his/her time sheet as if he/she had worked.
- 9.13 The reverse portion of the Watch Swap may occur at any time at the member's direction provided that the steps listed above are also followed for the reverse portion of the Watch Swap. The reverse portion of the Watch Swap is the sole responsibility of the two involved officers. No officer shall have any recourse with the Department for failure to pay back a shift or for working in excess of 80 hours per pay period without overtime in which a Watch Swap was negotiated.
- 9.14 Watch Swaps are intended to be a convenience for the regularly scheduled officer and it is the sole responsibility of the regularly scheduled officer to ensure that his/her replacement reports to work. If for any reason, the replacement officer fails to appear for duty, the regularly scheduled officer will be ordered back to work, or if that is not possible, will be considered to have taken the day off without pay. Since Watch Swaps are usually the result of inadequate staffing to allow that officer to take time off by other means, the regularly scheduled officer may not account for the missing time by use of sick leave, comp time, or the like.
- 9.15 The Watch Commander shall not approve a Watch Swap for the purposes of allowing the regularly scheduled officer to work an overtime assignment the same day. The Watch Commander may disapprove Watch Swap requests due to operational needs. Examples may include days on which there are planned special events that require maximum available staffing, etc.
- 9.16 The Chief of Police may evaluate this process from time to time and may suspend this process if it becomes apparent that officers are failing to honor Watch Swap commitments.
- 9.20 WORK STOPPAGE, ANY JOB ACTION, SLOWDOWN**
- 9.21 The Association agrees that under no circumstances will the Association recommend, encourage, or cause work stoppage, any job action, slowdown in any office or department of the City, nor to curtail any work or restrict any production, or interfere with any operation of the City. In the event any such work stoppage, any job action, slowdown is instigated by the Association, the City shall not be required to negotiate on the merits of any dispute which may have given rise to such work stoppage until said work stoppage has ceased.
- 9.22 In the event of any work stoppage during the term of this Memorandum of Understanding, whether by the Association or by any member of the bargaining unit, the Association by its officers, shall immediately declare in writing and publicize that such

work stoppage is illegal and unauthorized, and further direct its members in writing to cease the said conduct and resume work. Copies of such written notice shall be served upon the City. If in the event of any work stoppage, any job action, slowdown the Association promptly and in good faith performs the obligations of this paragraph, and providing the Association has not otherwise authorized, permitted or encouraged such work stoppage, the Association shall not be liable for any damages caused by the violation of this provision. However, the City shall not be liable for any damages caused by the violation of this provision. However, the City shall have the right to discipline, to include discharge, any employee who instigates, participates in, or gives leadership to, any work stoppage activity herein prohibited, and the City shall also have the right to seek full legal redress including damages, as against any such employee.

**9.30 LIGHT DUTY DETERMINATION**

9.31 In the event an employee is injured and may be able to return to work but not able to perform all their normal duty assignments, a temporary “light duty” assignment may be made by the City provided that a suitable light duty assignment is available within the department. To be eligible for such a modified assignment, the City may require the employee to provide the Human Resources Office a medical statement from his/her treating physician that clearly states the medical limitations and abilities of the employee. The City may require a second or third doctor’s determination at City expense.

9.32 An employee receiving such a light duty determination could be reassigned to any type of forty hour work week or reduced work schedule and may be assigned to any type of job or task consistent with the light duty limitations upon the determination of the Chief of Police. Once the employee was certified by the City doctor as no longer in need of light duty, they would be reassigned to their normal work.

**9.40 SUBSTANCE ABUSE POLICY**

9.41 The City and the Association will mutually agree the City of Morgan Hill will maintain a drug-free workplace. Alcohol and drug abuse on the job will not be tolerated and will result in immediate disciplinary action. Drug or alcohol abuse off the job which can be shown to effect on the job performance or safety will be documented and will result in quick disciplinary action up to and including termination. The City cannot and will not put its employees or members of the general public in danger by having an employee on duty who may be a risk to others.

9.42 The City does not intend to test any existing employees for drug use unless a documented reasonable suspicion exists and will be bound by applicable State and Federal Laws.

9.43 The Association and the City recognize the need for a drug-free workplace and the need to assist employees whose job performance is impaired due to chemical or alcohol dependency. The Association and the City agree to abide by the Substance Abuse Policy dated September 25, 1990, as adopted by the City Council.

**9.50 EMERGENCY WAIVER PROVISION**

- 9.51 In the event of circumstances beyond the control of the City, such as acts of God, fire, flood, insurrection, civil disorder, national emergency, or similar circumstances, the provisions of the Memorandum of Understanding which restrict the City's ability to respond to these emergencies shall be suspended for the duration of such emergency. After the emergency is over, the Association shall have the right to meet with the City regarding the impact on employees of the suspension of these provisions in the Memorandum of Understanding.

**9.60 PREFERRED VACATION SIGN-UP AND SHIFT SELECTION**

- 9.61 The sign-up period for preferred vacation begins on February 1 of each year.
- A. Each member may sign up for only one preferred vacation period of 34 hours or more.
  - B. A maximum of two patrol employees may request preferred vacation during the same week, provided the employee with the least seniority must select a patrol shift slot with different days off from the senior employee for the shift rotation period during which the vacation will occur.
  - C. Preferred vacations which are in compliance with subsections A and B above will be approved and posted by March 15, following the sign-up period.
  - D. An employee who fails to request a preferred vacation, or who does not take a preferred vacation which has been approved, shall lose any right to a preferred vacation until the next sign-up period.
  - E. Every sworn member of the Department covered by this MOU shall be included in the sign-up for the preferred vacation schedule.
- 9.62 The sign-up period for shift selection begins at least forty-five (45) days prior to the next shift rotation. Sergeants/Corporals/Officers shall select shifts for a four month period, beginning the start of the first pay period in October, February and June.
- A. The approved schedule will be posted at least twenty (20) days prior to the date the schedule is to become effective.
  - B. Officers/Corporals/Sergeants may only select the same shift for two consecutive Watch rotations. Officers/Corporals/Sergeants are required to select another shift for a minimum of one four month period. The City shifts are designated as the Day, Evening and Overlap Watches. Different days off do not constitute a different Watch.
  - C. If, due to this seniority-based selection process, a Sergeant/Corporal/Officer has no choice but to select a shift for the third time, the Division Commander may assign that officer to another shift. If this assignment requires placing the

Sergeant/Corporal/Officer in an occupied slot, the assignment shall be by seniority from those who have not worked the “third term shift” the previous period.

- D. Officers who have been assigned to the Patrol Division for three or more consecutive years are required to select a specific Watch if that Officer has not selected that Watch during the past three years. For example, an Officer must select to work a Day Watch if, during that past three consecutive years, that Officer has been assigned to the Patrol Division and has rotated between the Evening and Overlap Watch. Or, an Officer who is reassigned to the Patrol Division after spending a minimum of two years in another Division, must work each Watch for at least one rotation during the next three years.
- E. The Operations Division Commander may elect to administratively assign an Sergeant/Corporal/Officer to a specific shift for the good of the organization. Examples may include, but are not limited to, long-term personnel shortage, career enhancement of probationary employees. Any “bumping” of personnel done in order to accomplish this shall be done by seniority.
- F. Once a shift schedule has been finalized for the period, Sergeants/Corporals/Officers may mutually swap shift assignments only upon the recommendation of both the effected supervisors and with the approval of the Operations Division Commander.
- G. Only sworn members of the Department who are covered by this MOU and who are assigned to the Patrol Division, or who, prior to the start of the sign-up period, have received an order assigning them to the Patrol Division during the subject shift rotation, shall be assigned a “sign-up due date” for shift selection.

#### **9.63 SIGN-UP PROCEDURES**

- A. At least three (3) weeks prior to the beginning of the sign-up period for either a preferred vacation or shift selection, every affected sworn member assigned to the patrol division, or who has been issued an order assigning them to the patrol division, will be assigned a “sign-up due date” for shift selection.
- B. Each affected officer is solely responsible for preferred vacation or shift selection sign-up on their assigned date. They may be done using one of four methods:
  - i. The officer may come to the station and physically sign-up for an available vacation or shift slot.
  - ii. The officer may phone the Watch Commander and verbally select an available vacation or shift slot. (If the Watch Commander is not in the office, the officer is responsible for leaving the Watch Commander a return phone or pager number where the officer can be contacted at the Watch Commander’s earliest convenience).

- iii. The officer may leave a message for the Watch Commander in advance of the assigned sign-up date, listing desired shift selection(s) and a phone number where the officer can be reached on the sign-up date in order to resolve any conflicts; or
  - iv. The officer may notify the Watch Commander in advance that no selection is desired.
- C. If an officer fails to sign-up on the assigned date, that officer forfeits his/her seniority benefit and his/her name will be placed in a pool at the bottom of the list. When the assigned dates have been passed, a preferred vacation or shift selection schedule will be posted. Officers listed in the pool will have until the end of the sign-up period to submit a request of available slots. For preferred vacations, this period will end on March 1 of each year. For patrol shift selection, this period will end twenty (20) days before the next shift rotation. Requests from officers in the pool will be granted on an as-available basis in seniority order. If no request is made, or if a request conflicts with other previous sign-ups, vacations will be approved on a first-come/first-serve basis, and shifts will be administratively assigned.
- D. Sign-ups will be on the officer's own time if the assigned sign-up date falls outside of regular work time.

#### **9.70 DEPARTMENT SENIORITY**

- 9.71 Department wide seniority shall be used to determine the schedule for vacation selection, and seniority within a classification is used for shift selection within Department Divisions. If a conflict between these two methods of establishing seniority arises in the process of shift selection, seniority within a classification shall prevail.

#### **9.80 FACIAL HAIR**

- 9.81 Unit employees will be allowed to grow facial hair. Facial hair shall be maintained in accordance with standards established by the Chief of Police.

#### **9.90 VEHICLES**

- 9.91 In accordance with Department guidelines, up to three (3) Detective vehicles and Canine Vehicles will be available for officers to utilize on a take home basis provided that they live no more than thirty (30 ) minutes driving time (mutually understood to include Hollister) from the police station. Employees are provided these vehicles be available for call. Due to operational needs, employees may be required to leave their take home vehicle at work.

## **10.00 PRACTICE FIREARMS TRAINING**

- 10.01 The Department will provide up to Fifty (50) rounds of ammunition each month to those sworn officers who wish to conduct firearms practice during the month. Additional ammunition will be provided for subsequent months only when rounds already provided have been utilized.
- 10.02 Individual practice must occur off duty on the officer's own time.
- 10.03 Practice must occur at an approved range.
- 10.04 All practice must conform with the general orders of the Department.

## **11.00 ARTICLE X — COMPLAINT/GRIEVANCE PROCEDURE**

- 11.01 A complaint is defined as an allegation or charge against a party that a wrong has been committed. The complaint procedure is defined as the orderly process by which a determination is made as to whether or not a wrong has been committed. Each of the following steps is to take no more than five (5) working days to complete before the complaint proceeds to the next step.
- 11.02 Step 1: The employee should review any complaint with his/her supervisor. The supervisor is required to review every complaint and attempt to settle it as quickly and fairly as possible.
- 11.03 Step 2: If the action taken by the employee's supervisor is not satisfactory, the employee has the privilege of taking the complaint to successive levels of supervision as determined by the chart of administrative organization up to and including the Department Head.
- 11.04 Step 3: If the complaint is against the immediate supervisor, the employee may proceed directly to the next higher level.
- 11.05 Step 4: If the complaint is not resolved in Step 2 or Step 3, the employee may take the complaint to the Human Resources Manager. The decision of the Human Resources Manager will be final.
- 11.06 If the complaint is an issue which could fall under the grievance procedure as outlined in this MOU, the time requirements for the "grievance" are waived while the issue is attempted to be resolved via this complaint procedure. The time limits involved in the grievance procedure will be followed once the complaint procedure has been exhausted and the complaint comes under the guidelines as outlined in the grievance procedure.

## **11.10 DEFINITION OF GRIEVANCE**

- 11.11 The following grievance procedure shall be in effect:

A grievance is defined as any dispute involving the interpretation, application or alleged violation of:

- A. A current Memorandum of Understanding between the City and a recognized employee organization.
- B. The City's Personnel Ordinance and these Rules where the provision in dispute is within the scope of representation.
- C. A specific violation of State or Federal Law.
  - 1. The POA Board by majority vote and certifying this vote in writing to the City could move a grievance wherein there is an alleged specific violation of State or Federal Law.

11.12 Should any dispute concern an agreement, rule or action which prescribes a separate appeal procedure, that dispute shall be excluded from the procedure contained herein.

#### **11.20 INFORMAL AND FORMAL GRIEVANCES**

11.21 Step 1. An employee who has a grievance shall bring it to the attention of his immediate supervisor within five (5) working days of the occurrence of the act which is the basis for the dispute. If the employee and the immediate supervisor are unable to resolve the grievance within five (5) working days of the date it is raised with the immediate supervisor, the employee shall have the right to submit a formal grievance which shall contain the following information:

- A. The name of the grievant.
- B. The grievant's department and specific work site.
- C. The name of the grievant's immediate supervisor.
- D. A statement of the nature of the grievance including the date and place of occurrence.
- E. The specific provision, policy or procedure alleged to have been violated.
- F. The remedies sought by the grievant.
- G. The name of the individual or organization, if any, designated by the grievant to represent him in the processing of the grievance. However, in no event, shall an employee organization other than the one which formally represents the position occupied by the grievant be designated as the grievant's representative.

11.22 Step 2. An employee dissatisfied with the decision of the immediate supervisor in Step 1 may submit the grievance to his department head within seven (7) working days from the date of the immediate supervisor's decision. The department head shall respond to the grievance in writing seven (7) working days from the date of its receipt.

- 11.23 Step 3. If the employee is dissatisfied with the decision of the department head in Step 2, he may submit the grievance to the appointing authority within ten (10) working days from receipt of the department head's response. The appointing authority or his designated representative, shall respond to the grievance in writing within the ten (10) working days of its receipt. Within this period the appointing authority, at his discretion, may conduct an informal hearing involving the parties to the dispute. (Appointing authority is the City Manager)
- 11.24 Step 4. If the employee is dissatisfied with the decision of the appointing authority, he may submit the grievance to an Employee Relations Panel as provided in section 10.30 of this MOU. Notice of such appeal must be filed in writing by the employee with the appointing authority within fifteen (15) working days of receipt of that official's decision.

### **11.30 EMPLOYEE RELATIONS PANEL**

11.31 The Employee Relations Panel shall consist of three (3) members selected as follows:

- A. A City representative selected by the appointing authority.
- B. An employee representative selected by the grievant; provided, however, that the participation of the employee representative shall not be a potential recipient of the grievance settlement.
- C. A representative of the California State Mediation and Conciliation Service, or an individual acceptable to both the appointing authority and the grievant, who shall serve as chairperson. An individual, other than a State Representative, chosen by the parties shall be knowledgeable in public sector labor relations and may be chosen from any source reasonably likely to produce such an individual, including but not limited to a labor organization or management organization.
  - 1. The chairperson shall serve without compensation unless it can be demonstrated that the individual was obliged to use accrued leave benefits or leave without pay to serve on the Panel. Where provided compensation paid shall be shared by the City and the grievant, or his employee organization.
  - 2. The Panel shall be constituted and hear the grievance within thirty (30) working days from the filing of the appeal with the appointing authority. The Panel's decision shall be rendered within fifteen (15) working days from the conclusion of the hearing. The majority decision of the Panel shall be final and binding, subject only to ratification by the City Council if said decision mandates a capital expenditure or significant, unbudgeted expenditures. In those instances the ruling shall be submitted to the City Council for action which may include modification or reversal.



- 11.32 The conduct of the Panel's hearing shall be governed by the following ground rules:
- A. All hearings shall be convened during regular established City hours to the extent feasible. The grievant, and City employees serving on the Panel or whose participation in the hearing is required by the Panel, shall not suffer loss of wages for time devoted to this purpose during other than the employee's regularly scheduled work period, no compensation shall be provided.
  - B. All hearings shall be conducted in an expeditious manner, with the chairperson retaining final authority to the rule on procedural matters or on other points affecting the length and conduct of the hearing. Legal Counsel, court reporters and briefs shall only be utilized upon agreement between the city and the grievant and shall not serve to delay the Panel's decision beyond the prescribed time limit, except by mutual agreement.
  - C. The Panel shall be committed to resolving the grievance in an objective, timely and equitable fashion and shall not permit either party to engage in any presentation or line of an argument which detracts from this purpose. Moreover, the Panel shall not accept evidence not presented in Step 3 of this procedure.
  - D. No hearing shall be convened unless both parties have stipulated in writing to the issue or issues to be heard by the panel.

#### **11.40 GENERAL CONDITIONS**

- 11.41 Any time limit set forth in 10.20 or 10.30 of Article X of this MOU may be extended by written agreement between the City and grievant or the recognized employee organization representing the grievant.
- A. Failure on the part of the grievant or their designated representative to comply with the time limits of this procedure or any extension thereto shall constitute a withdrawal of the grievance without further recourse to re-submittal under this procedure. Failure on the part of the City to comply with prescribed time limits or extension thereto shall result in the grievance being moved to the next step of the procedure
  - B. The grievant shall be entitled to have a representative of his/her own choosing, except as provided in 10.20 - 10.40 of Article X of this MOU, present at any grievance meeting with the City.
  - C. A representative of a recognized employee organization which represents the grievant's position shall be entitled to be present at any hearing held in conjunction with Step 3 and Step 4 of this procedure.
  - D. The City Manager or his designated representative shall serve as the central repository for all grievance records.

## **12.00 ARTICLE XI — RATIFICATION/FUTURE MEETINGS**

12.01 This Memorandum of Understanding shall be effective July 1, 2001 following ratification by the Association Membership and approval by the Morgan Hill City Council.

12.02 Unless mutually agreed otherwise by the City and the Association, the Association shall provide the City with its written requests on terms within the scope of representation for the period beginning July 1, 2003 no later than two weeks prior to the start of negotiations. The City and the Association shall begin to meet and confer on or before April 1, 2003, unless mutually agreed otherwise.

### **FOR THE CITY OF MORGAN HILL**

\_\_\_\_\_  
J. Edward Tewes                      Date  
City Manager

\_\_\_\_\_  
Melissa Stevenson Dile              Date  
Assistant to the City Manager

\_\_\_\_\_  
Carey Sullivan                      Date  
Police Captain

\_\_\_\_\_  
Shairon Williams                      Date  
Human Resources Supervisor

### **FOR MORGAN HILL POLICE OFFICERS ASSOCIATION**

\_\_\_\_\_  
David Swing                      Date  
President

\_\_\_\_\_  
Larry Katz                      Date  
POA Negotiator

\_\_\_\_\_  
Mark Brazeal                      Date  
POA Negotiator

\_\_\_\_\_  
Ricardo Rodriguez                      Date  
POA Negotiator

## Exhibit A

### CITY OF MORGAN HILL SALARY SCHEDULE MORGAN HILL POLICE OFFICERS ASSOCIATION

*Effective 6/24/01 (2.5% cost of living increase)*

POSITION	A	B	C	D	E	F
POLICE SERGEANT	\$5,375.68	\$5,644.46	\$5,926.69	\$6,223.02	\$6,534.17	\$6,860.88
POLICE CORPORAL	\$4,876.29	\$5,120.10	\$5,376.11	\$5,644.92	\$5,927.16	\$6,223.52
POLICE OFFICER	\$4,643.88	\$4,876.07	\$5,119.88	\$5,375.87	\$5,644.67	\$5,926.90

*Effective 1/6/02 (2.5% cost of living increase)*

POLICE SERGEANT	\$5,510.07	\$5,785.58	\$6,074.85	\$6,378.60	\$6,697.53	\$7,032.40
POLICE CORPORAL	\$4,998.20	\$5,248.11	\$5,510.51	\$5,786.04	\$6,075.34	\$6,379.11
POLICE OFFICER	\$4,759.98	\$4,997.98	\$5,247.87	\$5,510.27	\$5,785.78	\$6,075.07

*Effective 7/7/02 (2.5% cost of living increase)*

POLICE SERGEANT	\$5,647.82	\$5,930.22	\$6,226.73	\$6,538.06	\$6,864.97	\$7,208.21
POLICE CORPORAL	\$5,123.15	\$5,379.31	\$5,648.28	\$5,930.69	\$6,227.22	\$6,538.58
POLICE OFFICER	\$4,878.98	\$5,122.93	\$5,379.07	\$5,648.03	\$5,930.43	\$6,226.95

*Effective 12/29/02 (3% cost of living increase)*

POLICE SERGEANT	\$5,817.26	\$6,108.12	\$6,413.53	\$6,734.20	\$7,070.91	\$7,424.46
POLICE CORPORAL	\$5,276.85	\$5,540.69	\$5,817.72	\$6,108.61	\$6,414.04	\$6,734.74
POLICE OFFICER	\$5,025.35	\$5,276.61	\$5,540.44	\$5,817.47	\$6,108.34	\$6,413.76